



**MINUTES OF MEETING OF THE CITY COUNCIL
OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, May 18, 2004, 8:00 p.m.**

MEETING

The Meeting of the City Council was called to order by Mayor Cooper at 8:00 p.m., followed by the Pledge of Allegiance led by Council Member Halliday.

ROLL CALL

Present: COUNCIL MEMBERS Jimenez, Quirk,
Halliday, Ward, Dowling, Henson
MAYOR Cooper

Absent: None

PUBLIC COMMENTS

Bonnie Peyton expressed her concern on the Rt. 238 corridor-widening project. She submitted further listings of signatures from customers of businesses on Mission Boulevard who are concerned about the widening of the roadway and the elimination of businesses along the corridor.

Ajay Ahlwwalia, owner of a gas station on Mission Boulevard, spoke against the Rt. 238 corridor extension which he felt would condemn his business. He noted that this is all being done for the comfort of out-of-town commuters who are just passing through the City of Hayward. He suggested that the Council reject the proposal and save facilities and jobs.

Scott Raty, Chamber of Commerce, spoke regarding the Blue Rock Country Club. He was promoting the theme, "Enough is enough." HAPA has in a sense held this project hostage through abuse of the court system. There is \$8.5 million at risk for the elementary school in the Blue Rock Development.

Council Member Halliday asked if the funding has been lost.

Harry Bruno, resident of Campus Drive, asked Council Members to investigate matters concerning issues involving our community, including the matter of former Police Chief Calhoun and the impact on the current budget.

Council Member Jimenez objected to Mr. Bruno's letter to the editor related to his vote to increase Council compensation.

Jason Moreno reiterated on the topic of section 6.39 of the Traffic Code and the associated fines.

DRAFT

Barbara Heringer-Swarr announced a film that will be shown at Chabot College entitled, "Arsenal of Hypocrisy." She also commented on the \$350,000 that was allocated for community programs and commented on the attitude she perceived from Council Members.

Liz Morales of COMPRE showed a billboard to which her organization objects. She said this encourages a stereotype of Latina women which the alcohol industry continues to support. She asked Council to support banning this advertising.

David Cota, also from COMPRE, announced that various communities will hold a rally at 10:00 a.m., this Friday, to protest the advertising. He suggested scheduling a work session to discuss an ordinance regulating billboard advertising in the City of Hayward.

Ed Mullins spoke about the influence HAPA has in using the legal system to get its way. He called for the members of HAPA to stand and be counted and explain why they feel they have the right to determine what Hayward wants and needs.

Council Member Ward requested that at the next meeting, a resolution be considered to request that HAPA litigation be withdrawn, and expressing the support for the Blue Rock Development. There is sufficient environmental documentation completed over the past twenty years.

Council Member Henson suggested, while keeping in mind the First Amendment right of freedom of speech, that Council write a letter signed by Mayor regarding the billboard.

Mayor Cooper stated that she was disappointed by the decision of Ninth Circuit Court of Appeals to issue an injunction against construction of the Blue Rock Country Club. The project has numerous benefits beyond the expanded housing. It includes preservation of over 1,200 acres of open space and a much-needed state-of-the-art elementary school, the first new school in Hayward in nearly 40 years. The school is now in jeopardy because of the court's decision. She suggested that staff be instructed to contact appropriate state officials to seek assistance in assuring that the funding earmarked for the school is preserved.

CONSENT

Item 2 was removed for discussion.

1. Approval of Minutes of the City Council Meeting of May 11, 2004

It was moved by Council Member Ward, seconded by Council Member Dowling, and unanimously carried to approve the minutes with corrections, of the City Council Meeting of May 11, 2004.

2. Authorization to Contract for Consulting Services for the Public Safety Radio Communications System

Staff report submitted by Deputy City Manager/Technology Services
Director Priest, dated May 18, 2004, was filed.

DRAFT



**MINUTES OF MEETING OF THE CITY COUNCIL
OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, May 18, 2004, 8:00 p.m.**

Council Member Henson stated that the company to be awarded the contract was listed favorably by the National Task Force of Interoperability as a recommended vendor. As a member of the Council's Technology Applications Committee, he requested periodic updates through the June 2005 completion and installation.

It was moved by Council Member Henson, seconded by Council Members Jimenez and Dowling, and unanimously carried to adopt the following:

Resolution 04-071, "Resolution Authorizing the City Manager to Negotiate and Execute a Contract for Services with Macro Corporation to Provide Radio Communication Consulting Services"

HEARINGS

3. Appeal of Planning Commission Denial of Modification of Planned Development to Divide an Anchor Store into Three Smaller Stores – Satish Narayan (Applicant)/Rana Ahmed (Owner) – The Project is Located at 24989 Santa Clara Avenue

Staff report submitted by Associate Planner Camire, dated May 18, 2004, was filed.

Principal Planner Patenaude made the staff presentation. He explained that the Planned Development District was created by the City Council in 1989.

Council Member Henson asked why the property was vacant for the past three years and how much of an effort had been made to lease the space. He asked what the major issue was to not occupy the vacant building.

Principal Planner Patenaude explained that staff believes this site is marketable as a secondary tenant. He noted that the new owners had been marketing the location with an eye toward subdividing the location.

Principal Planner Patenaude stated the Planning Commission was willing to re-open discussions if a destination restaurant might be considered.

Council Member Ward asked what the Planning Commission might reconsider and how staff would work with applicant. He then commented on the broker who works with the City staff and he feels that this is a marketable site. Council Member Ward said that he met with the applicant who was unable to identify a tenant to use the whole space. If Council agrees to wait six months, he would want it monitored.

DRAFT

Principal Planner Patenaude said they would enlist the aid of the Economic Development staff to check into the matter and determine the claims of the applicant.

City Manager Armas commented on an existing restaurant in town that has a huge draw, but this may not be what this location needs.

Council Member Halliday reported that she was on the Planning Commission when this was considered and that she felt confident that she could evaluate and act on the matter in an unbiased way. The applicant indicated that he would not object to her involvement. She discussed the drug store issue.

Principal Planner Patenaude explained there are no internal restrictions. A change in the Planned Development District would have to include a change of uses to incorporate a broader range of uses, and become less restrictive.

Council Member Jimenez discussed the staff report which recommended that the subject be referred to the Council's Commercial Center Improvement Committee.

Mayor Cooper opened the public hearing at 8:52 p.m.

Satish Narayan, applicant, explained his efforts in marketing the building adding that they do not want a vacant building. He discussed his efforts in working with the Economic Development staff. He maintained his efforts in working with staff to receive assistance in getting a tenant. He noted that he has a marketing consultant on his staff. He explained his efforts to service the surrounding neighborhoods and has not sought destination tenants. He asked for some encouragement from the Council and approval of the subleasing. In response to Council Member Henson's question regarding the letters of interest, he referred to his marketing consultant.

Victor Khan, marketing consultant, said the team wants to give a cluster effect for consumers to choose places to go. He listed the various stores and brokerages that were contacted and the maximum square footage they wanted. He noted his efforts with Claim Jumpers Restaurants. He also informed the Council about a preschool center that has possibility. He urged subdividing of the building.

Council Member Quirk asked whether another drug store could be part of their market strategy and whether the owners know why the space was vacant for three years. Mr. Khan described the number of drug stores in the area. He also noted that the property had been intensively marketed and the space was determined to be too large or too small.

Council Member Dowling said he met with the team of this project, and he asked for specific proof as rejection letters from prospective tenants. Mr. Khan described the various tenants and their needs.

In response to Council Member Halliday's question regarding the marketability of the building if it were divided into two spaces rather than three, Mr. Kahn explained that there is more flexibility in the square footage.



**MINUTES OF MEETING OF THE CITY COUNCIL
OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, May 18, 2004, 8:00 p.m.**

Rene Brochier, Collier International, spoke in support of having the space downsized. This space has been on the market for a long time and it is an eyesore. He cited other vacancies in other cities that are also eyesores. He commented on the substantial frontage and Mr. Kahn's rigorous efforts to market the building. Even though it is visible for identity purposes, it is tucked into a corner of the shopping center. Times change and this location needs to be changed as well. The owners need flexibility.

Owner Rana Ahmed said they are willing to work with the City to look for the kind of tenants that will satisfy the City.

Council Member Ward said, in his personal opinion, he would not go to a restaurant in a shopping center. Mr. Khan discussed the La Chavelle opportunity.

Council Member Henson asked about the exclusivity on the food agreement with Albertsons. It was noted that it does not apply to restaurants.

City Manager Armas stated that in reviewing the CC&Rs for this location that this property is not in a restaurant capacity and that this was clearly an anchor space.

Barbara Heringer-Swarr appreciated the owner's efforts and commented that they should have the opportunity to market and occupy their building and use their money and be permitted to reconfigure their own building.

Mayor Cooper closed the public hearing at 9: 20 p.m.

Mayor Cooper said she was willing to uphold the Planning Commission's denial until they can bring two or three viable tenants to fit that space as this is an excellent location.

Council Member Dowling said he met with the applicant and discussed the 24-Hour Fitness across the street. He expressed his concern about Mr. Khan's efforts. He would agree to have any of the restaurants that were enumerated. He recommended allowing the applicant to subdivide the space with the condition that the Council Commercial Improvement Committee be instructed with approving the specific tenants.

City Attorney O'Toole suggested that the Council instruct staff to develop the conditions and findings necessary for the subdivision.

Council Member Henson clarified that the motion included subdividing right now rather than six months from now. He supported the motion saying the applicant made a pretty compelling case. He noted that in the interim there might be a tenant that could occupy the entire building. He commented

DRAFT

on restaurant tenants and quality tenants. He urged additional marketing and use of appropriate signage.

City Manager Armas added that since this parcel this is part of the Planning District Zoning, the district has to be modified by ordinance following work with the Commercial Center Improvement Committee.

It was moved by Council Member Dowling, seconded by Council Member Henson, and unanimously carried to allow the applicant to meet with the Commercial Improvement Committee to approve the specific revisions to the Planned Development and direct staff to develop findings and conditions for approval.

Resolution 04-072, "Resolution Granting Appeal and Referring Zone Change Application No. PL-2003-0746 to the Council's Commercial Center Improvement Committee for the Development of Appropriate Use Limitation Conditions"

LEGISLATIVE BUSINESS

4. Detachment of Oliver West Property from Alameda County Water District Jurisdiction

Staff report submitted by Principal Planner Patenaude, dated May 18, 2004, was filed.

As there were no requests to speak, Mayor Cooper opened and closed the public hearing at 9:29 p.m.

It was moved by Council Member Ward, seconded by Council Member Henson, and unanimously carried to introduce the following ordinance and adopt the following resolution:

Ordinance 04-__, "An Ordinance Amending Chapter 5, Article 4 of the Hayward Municipal Code Relating to Well Standards"

Resolution 04-073, "Resolution Authorizing the City Manager to Execute an Agreement with the Alameda County Water District to Detach Oliver West Property from the Alameda County Water District and File an Application with the Alameda County Local Agency Formation Commission Requesting Detachment"



**MINUTES OF MEETING OF THE CITY COUNCIL
OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, May 18, 2004, 8:00 p.m.**

COUNCIL REPORTS

Council Member Dowling reported on his attendance at the League of California Cities' Legislative Day in Sacramento. Assembly Member Corbett expressed concern regarding the "deal" made by the Cities with the Governor. Senator Figueroa was concerned with various side-deals made by the Governor without Legislative input. He also explained the financial quandary in which special districts find themselves and talked about the impacts to HARD.

Council Member Henson also expressed concern with the Governor not sharing responsibility with the Legislature.

ADJOURNMENT

Mayor Cooper adjourned the meeting at 9:34 p.m.

APPROVED:

Roberta Cooper, Mayor, City of Hayward

ATTEST:

Angelina Reyes, City Clerk, City of Hayward

DRAFT